



July 15, 2003

Kay Turner, Director
Materials Management
University of Arkansas at Pine Bluff
Pine Bluff, AR 71601

Re: Advisory Opinion # 483-03-3

Dear Ms. Turner:

This letter is in response to your request for an advisory opinion in accordance with Section 19-11-715(b) of the Arkansas Code Annotated of 1987. Your request for an advisory opinion is based on the following facts:

- a) UAPB has been contracting (via purchase order) for public announcing services with John Jacob, husband of UAPB employee, Shirley Jacob, Director of Student Activities.
- b) You are requesting an advisory opinion to determine whether such activity creates an ethical conflict as per ACA §19-11-701 et seq., and/or Governor's Executive Order #98-04.

You stated that private funds have been used to pay Mr. Jacob pending an opinion as to whether public funds can be used. Contracts restricted by the Ethics in Public Contracting Law (§§ 19-11-701 et seq.) and Governor's Executive Order #98-04 are those wherein public funds are used. Contracts paid with private or foundation monies are not affected by these laws.

It would be a conflict of interest, according to Ark. Code Ann. § 19-11-705, for Shirley Jacob, an employee of UAPB, to participate directly or indirectly in any matter pertaining to a contract that UAPB entered into with John Jacob, her husband. However, if Shirley Jacob has no involvement with the contract, there is no specific prohibition in Ark. Code Ann. § 19-11-701 et seq. against an agency that employs one spouse, subsequently contracting with the other spouse, so long as the state employee is not involved in any way with the contract involving the state employee's spouse.

Governor's Executive Order 98-04 and the Regulations promulgated to administer the Order provide in Section 4(D) that agencies must obtain the approval of the Chief Fiscal Officer of the State to contract with spouses of state employees if the consideration for the contract is greater

than \$25,000. Accordingly, if John Jacob's contract with UAPB is greater than \$25,000, UAPB should submit a request for approval of the contract.

This advisory opinion is issued in accordance with Arkansas Code Annotated Section 19-11-715(b), and compliance with the above course of conduct is deemed to constitute compliance with the ethical standards of the Act.

Sincerely,

Richard Weiss
Director

Cc: Joe Giddis
Tom Gay, Office of Atty. General